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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,133	06/01/2001	Tim Clark	VTI-P2702	1924

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 NEWPORT BEACH, CA 92660

EXAMINER

HARTMAN JR, RONALD D

ART UNIT	PAPER NUMBER
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2121

DATE MAILED: 06/20/2003

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/872,133

Applicant(s)

CLARK ET AL.

Examiner

Ronald D Hartman Jr.

Art Unit

2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-39 are presented for examination.
2. Priority has been granted for 9/18/2000.

Drawings

Figures 1-2 and 7a-7c do not show interconnection directional arrows that would indicate the direction of communications between individual elements in the drawings. See Figures 4a and 4b for Figures that have the appropriate notation.

Claim Objections

3. Claims 1-18 are objected to because of their interchangeable use of "electronic data acquisition system" and "electronic data acquisition device". It the examiners opinion that "device" should be used in order to provide consistency.
4. Claim 3 is objected to because of the use of acronyms. The applicant is asked to replace the acronym with its respective formal name.
5. Claim 11; delete "the group of" in line 2, as it is confusing and unnecessary.

6. Claim 18, delete "said aspects of" in line 1, "that" in line 1, "are controlled" in line 2 and "the group of" in line 2, as it is confusing and unnecessary. Furthermore, replace "include" with "includes" in line 2.

7. Claim 22; change "the state" to "a state" in line 4.

8. Claims 1-21 and 34-38 should be written as "A system comprising: ..." since it is impossible for one all-inclusive apparatus to house all of the intended parts of at least pending claims 1 and 19. In other words, claims 1, 19 and 34 set forth a system, not a particular apparatus.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claim 11/10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11/10 recites "said means for electronically forwarding information". There is insufficient antecedent basis for this limitation in this claim.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

12. Claims 1-4, 7-9, 12, 16, 19-20, 22-28, 30-32 and 34-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith, U.S. Patent No 6,192,282, having an effective filing date of 10/11/1996.

13. As per claims 1, 19, 22, 30, 34 and 38-39, Smith teaches a system comprising:

- sensors for monitoring a water installation (Fig.1 element 23);
- an electronic data acquisition device for receiving data obtained by the sensor (Fig. 2b element 13);
- a remote server for communicating with the electronic data acquisition device (Fig. 2c element 109); and
- a network interface providing a connection between the server and the data acquisition device (Fig. 2c element 111).

14. As per claims 19, 22, 30, 34 and 38-39, the server being used as a storage and control device is taught by Smith (C20 L45-55).

15. As per claims 22 and 30, the periodic collection of data about the pool or spa and a communication link provided on demand are both feature believed to be inherent to the use of the Internet for controlling and monitoring of a building automation system.

16. As per claims 2-3, 7, 27, 30, 34 and 38-39, Smith teaches temperature monitoring and control for a pool and a spa (Fig. 1 element 23).

17. As per claims 4, 9, 12, 16 and 20, Smith teaches a remote user interface (Fig. 1 element 15) and as per claim 16, an electronic controller is inherent to the disclosed capabilities of Smith's building automation system.

18. As per claim 8, Smith teaches monitoring and controlling the chemicals associated with a pool or spa (Figure 1 element 23).

19. As per claim 23, Smith teaches a dial up connection (TCPIP; C20 L45-55).

20. As per claims 24 and 39, Smith teaches the use of the Internet (C20 L45-55).

21. As per claim 25, Smith teaches the use of a wireless connection (See Figure 1 and the different types of user interfaces; e.g. IR Remotes).

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22. As per claims 26, 28, 32, 34-36, Smith teaches the server providing storage and control commands through use of a GUI (C20 L45-55) and the use of electrically controllable devices are inherent to Smith's disclosed building automation system.

23. As per claim 27, Smith teaches the use of a pump and a heater (Figure 1 element 23).

24. As per claims 31 and 37, Smith teaches an Internet browser is inherent to the use of the Internet.

Claim Rejections - 35 USC § 103

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

26. Claims 5-6, 10-11, 13-15, 17-18, 21, 29 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith as applied to claims 1, 19, 22, 30 and 34 above.

27. As per claims 5-6, although Smith does not specifically teach a self-sensing sensor, it is a feature that is believed to would have been obvious to one of ordinary skill in the art. That is, since the use of sensing mechanisms that also employ a means to determine the sensing means operational abilities is well known for applications ranging

from manufacturing process control systems to building automation systems, a self checking sensor would have been an obvious addition to Smith since it would allow for the disclosed system of Smith to provide an alert in the event a component of the system fails or starts to fail. Therefore, since Smith teaches monitoring and controlling of a pool/spa and since the aim of Smith is to provide a building automation system, and since the purpose of a building automation system is to provide a efficient and effective means for monitoring and controlling all aspects of a building, a feature whereby the status of sensors is also known would be an obvious addition to Smith since it would provide further feedback from the building, thereby increasing its efficiency by providing a means for determining a problem before it occurs, a feature which is greatly desired in building automation. Therefore, for at least these reasons, the use of status sensors would have been obvious to one of ordinary skill in the art at the time the invention was made. Furthermore, a water filter being monitored would be an obvious variation of the other pool or spa monitoring and control capabilities.

28. As per claims 10-11 and 15, Official Notice is taken with respect to email, as its incorporation into a building automation system would allow for communicating information regarding the system to someone located away from the central controller and would be obvious to one of ordinary skill in the art at the time the invention was made.

29. As per claims 13, 17, 21, 29, 33, the server being used as a storage and control device is taught by Smith (C20 L45-55). Therefore, since Smith teaches that a GUI may be used, and since graphs, charts or tables would be an obvious implementation of GUI capabilities for relaying information about the building to a user, especially for controlling devices within a building automation system, a feature whereby graphs, tables or charts are used or are capable of being viewed are obvious implementations of known GUI capabilities and would have been obvious to one of ordinary skill in the art at the time the invention was made.

30. As per claim 14, a feature whereby an error message is generated in response to a particular stimulus is believed to be inherent to the disclosed capabilities of Smith's building automation system (inherent to an effective security system that tells a user when an intruder is trying to access the building).

31. As per claim 18, Smith teaches the monitoring and control of pumps and heaters (Fig. 1 element 23).

Conclusion

32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald D. Hartman Jr. whose telephone number is (703) 308-7001. The examiner can normally be reached Monday-Friday, 11:30 am – 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached at (703) 305-8498. The fax number for this examiner is (703) 746-5408.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9618.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 746-7239, (for formal communications intended for entry)

Or:

(703) 746-7240, (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

**Hand delivered responses should be brought to Crystal Park II, 2121
Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).**

Ronald D. Hartman Jr.
Patent Examiner
Art Unit 2121



**JOHN FOLLANSBEE
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